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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,585	06/07/2000	Jennifer Pearson	2043.025US1	8996
49845	7590	11/20/2009		
SCHWEGMAN, LUNDBERG & WOESSNER/EBAY P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER NGUYEN, MAIKHANH	
			ART UNIT 2176	PAPER NUMBER
			NOTIFICATION DATE 11/20/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM
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**Supplemental
Notice of Allowability**

Application No.

09/589,585

Examiner

MAIKHANH NGUYEN

Applicant(s)

PEARSON ET AL.

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Appeal Brief filed 07/06/2009 and the telephonic interview on 10/07/2009.
2. ☒ The allowed claim(s) is/are 3, 14, 19, 21-24 and 26-28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date ____ 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other ____. |
|--|--|

/Laurie Ries/
Primary Examiner
Technology Center 2100
6 November 2009

In the previous office action (mailed 10/13/2009), there was an inadvertent exclusion of claims 26-29 in the listing of claims. This Office Action is to correct the issue.

I. EXAMINER'S AMENDMENT:

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the Issue Fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Bradley W. Scheer (Reg. No. 47,059) on 10/07/2009.

The application has been amended as follows:

In the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

1.-12. (Canceled)

13. (Currently amended) A computer-readable storage medium having stored thereon executable instructions for causing a computer to perform a utility program for selecting images for a markup language document comprising:

determining a number of images to display in the markup language document;

obtaining a set of random numbers, the set of random numbers containing a plurality of random numbers, a number of the plurality of random numbers being equal to the determined number of images;

retrieving images from a group of images using the set of random numbers, each retrieved image being associated with an item represented in that retrieved image;[[and]]

determining a location in the markup language document for each of the retrieved images from an instruction embedded in the markup language document; and

placing the retrieved images in the markup language document, the retrieved images being placed in the locations defined in the instruction.

14. (Currently amended) The computer-readable storage medium of claim 13 having further executable instructions comprising:

validating the retrieved images against validation criteria; and
retrieving a replacement image from the group of images if a retrieved image fails
the validation.

15.-18. (Cancelled)

19. (Currently Amended) A computer system to select images for a markup language document, the computer system comprising:

a processing unit;

a memory coupled to the processing unit through a system bus;

a computer-readable storage medium coupled to the processing unit through the system bus, and an instruction embedded in [[a]] the markup language document in the memory to cause the processing unit to execute a utility program from the computer-readable storage medium, wherein the utility program causes the

processing unit to: ~~determine a number of images to display in the markup language document, select the number of images using a set of random numbers, a number of the set of random numbers being equal to the determined number of images, and place the selected images in the markup language document, each selected image being associated with an item represented in that selected image~~

determine a number of images to display in the markup language document;

obtain a set of random numbers, the set of random numbers containing a plurality of random numbers, a number of the plurality of random numbers being equal to the determined number of images;

retrieve images from a group of images using the set of random numbers, each retrieved image being associated with an item represented in that retrieved image; [[and]]

determine a location in the markup language document for each of the retrieved images from an instruction embedded in the markup language document; and

place the retrieved images in the markup language document, wherein the retrieved images are placed in the locations defined in the instruction.

20. (Cancelled)

21. (Original) The computer system of claim 19, wherein the instruction specifies the number of images to display.

22. (Currently Amended) The computer system of claim 19, wherein the computer-readable storage medium further comprises an administration program that causes the processing unit to create a group of images from which to select the number of images.

23. (Original) The computer system of claim 19, wherein the computer system is a web server and the markup language document is a web page.

24. (Currently Amended) The computer system of claim 23, wherein the web page contains images of items being auctioned on ~~a web site~~ the web page hosted by the web server.

25. (Canceled)

26. (Currently Amended) A system including at least one processor for selecting images for a markup language document, the system comprising:

means for determining a number of images to display in the markup language document;

means for obtaining a set of random numbers, the set of random numbers containing a plurality of random numbers, a number of the plurality of random numbers being equal to the determined number of images;

means for retrieving images from a group of images using the set of random numbers, each retrieved image being associated with an item represented in that retrieved image; [[and]]

means for determining a location in the markup language document for each of the retrieved images from an instruction embedded in the markup language document;
and

means for placing the retrieved images in the markup language document, the retrieved images to be placed in the locations defined in the instruction.

27. (Currently Amended) A method to select images for a markup language document, the method comprising:

determining a number of images to display in the markup language document;

obtaining a set of random numbers, the set of random numbers containing a plurality of random numbers, a number of the plurality of random numbers being equal to the determined number of images;

retrieving images from a group of images using the set of random numbers, each retrieved image being associated with an item represented in that retrieved image; [[and]]

determining a location in the markup language document for each of the retrieved images from an instruction embedded in the markup language document; and

placing the retrieved images in the markup language document, the retrieved images being placed in the locations defined in the instruction.

28. (Previously Presented) The method of claim 27 further comprising:

validating the retrieved images against validation criteria; and

retrieving a replacement image from the group of images if a retrieved image fails the validation.

29. (Cancelled)

II. REASONS FOR ALLOWANCE:

Claims 13, 14, 19, 21-24, and 26-28 are allowed.

The following is an examiner's statement of reasons for allowance:

Interpreting the claims in light of the specification, Examiner finds the claimed invention is patentably distinct from the prior art of record, as argued by Applicant in the Appeal Brief filed 07/06/2009.

The prior art does not expressly teach or render obvious the invention as recited in independent Claims 13, 19, 26, and 27.

The features as recited in independent Claims 13, 19, 26, and 27 “*obtaining a set of random numbers, the set of random numbers containing a plurality of random numbers, a number of the plurality of random numbers being equal to the determined number of images; retrieving images from a group of images using the set of random numbers, each retrieved image being associated with an item represented in that retrieved image; determining a location in the markup language document for each of the retrieved images from an instruction embedded in the markup language document; and placing the retrieved images in the markup language document, the retrieved images being placed in*

the locations defined in the instruction", when taken in the context of the Claims as a whole, were not uncovered in the prior art teachings.

The Examiner asserts that the claims overcome the prior art of record when the limitations are read in combination with the respective claimed limitations in their entirety.

Dependent claims are allowed as they depend upon allowable independent claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Contact information

- III. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maikhanh Nguyen whose telephone number is (571) 272- 4093. The examiner can normally be reached on Monday - Friday from 9:00am – 30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Hutton can be reached at (571) 272-4137.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Maikhanh Nguyen/
Examiner, Art Unit 2176

/Laurie Ries/
Primary Examiner
Technology Center 2100
6 November 2009